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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,172	12/11/2003	Robert A. Janssen	SSK-51 (19354)	5946
22827	7590	03/18/2008		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER MARCETICH, ADAM M	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 03/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/733,172

Applicant(s)

JANSSEN ET AL.

Examiner

ADAM MARCETICH

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761

/Adam Marcetich/
Examiner, Art Unit 3761

Continuation of 11. does NOT place the application in condition for allowance because: Response to Arguments

1. Applicant's arguments filed 20 February 2008 have been fully considered but they are not persuasive.
2. Applicants request withdrawal of the finality of the rejection of claim 1 (which is formally original claim 5) on the grounds that original claim 5 was not rejected in view of Stockum under any section. Applicant asserts that the Final Office Action is giving a new rejection of an original claim. Examiner notes that claim 1 has been amended from its original scope and language, therefore applying finality under new grounds of rejection is proper.
3. Applicant asserts that Stockum discloses two different types of inner coatings containing an antimicrobial agent, neither of which include a crosslinked hydrogel network, since the crosslinked cornstarch of Stockum does not include any of the specifically claimed monomers. Examiner notes that the carboxylated styrene butadiene lattices of Stockum are relied upon for the limitation of a crosslinked hydrogel network. Applicant asserts that the second type of layer disclosed by Stockum is a low coefficient of friction elastomeric coating comprising carboxylated styrene butadiene copolymer, is not disclosed as being crosslinked. Regarding the limitation of being crosslinked, Examiner notes that styrene butadiene lattices inherently have crosslinks, since it exists as a thermoplastic elastomer (see online encyclopedia article).
4. Applicant asserts that the carboxylated styrene butadiene copolymer does not include any of the monomers required by the crosslinked hydrogel network of independent claim 1. Examiner notes that the disclosure of vinyl acrylate lattices (column 4, line 20) is relied upon for the limitation of a monomer selected from the claimed group. Vinyl acrylate lattices are formed from monomers including acrylic acids and vinyl alcohols. Regarding the limitation of being crosslinked, Examiner notes that the language "lattices" is interpreted to mean a crosslinked polymer.
5. Applicant asserts that the intended release of the crosslinked hydrogel network of independent claim 1 is in direct contrast with the teachings of Stockum, since Stockum teaches that "the inner coating is free of any additive materials that would tend to deliver the active ingredient to the wearer." (Col. 3, lines 57-61). In response to applicant's argument, Examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.
6. Applicant asserts that Potter fails to disclose all of the limitations of independent claim 1 since Potter discloses a lubricating layer formed from a "hydrogel polymer and a surfactant bonded thereto." (Pg. 2, line 26) Applicant further asserts that the bonding required by Potter would destroy the entire purpose of the glove of claim 1 in the present Application. Examiner notes that the step c of Potter (p. 2, lines 32-33) is interpreted to perform the step of bonding an article to a hydrogel, not a hydrogel to a surfactant. Drying a surfactant does not impede its ability to be releasable when contacted with an aqueous environment as claimed.